<div align="center">**Remarks/Arguments**</div>

A.   Pending Claims

Claims 1, 4-9, 13-15, 17-19, 22-24, 27-32, 36-42, 45-47, 50-55, 59-61, 63-65, and 68-72 have been amended. Claims 2, 3, 25, 26, 48, and 49 have been cancelled. Claims 1, 4-11, 13-24, 27-34, 36-47, 50-57 and 59-72 are pending in the case.

B.   35 U.S.C. § 101

The Examiner rejected claims 47-57 and 59-69 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, on grounds that the claims leave out a particular machine necessary to execute the instructions. Although Applicant respectfully disagrees with these rejections, to expedite prosecution of the application, Applicant has amended claim 47 to recite: "A computer readable storage medium readable by a machine, tangibly embodying program instructions stored thereon, wherein the program instructions are executable by the machine to perform methods steps including..." Applicant submits that amended claim 47 and the claims depending therefrom are directed to statutory subject matter.

For at least the reasons stated above, Applicant respectfully requests removal of the rejections under 35 U.S.C. § 101.

C.   35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 14, 15, 37, 38, 60, 61, and 70-72 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 14, 15, 37, 38, 60, 61, and 70-72 for clarification. Applicant respectfully requests removal of the rejections under 35 U.S.C. § 112, second paragraph.

D.   The Claims are Not Obvious by Aquila in View of Rozek Pursuant To 35 U.S.C. § 103(a)

The Examiner rejected claims 1-5, 7-10, 14-20, 22, and 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0035488 to Aquila et al. ("Aquila") in view of U.S. Patent Application Publication No. 2004/0205562 to Rozek ("Rozek"). The Examiner rejected claims 24-34, 36-46, 47-57, and 59-69 in a like manner to the Examiner's rejections of claims 1-11 and 13-23. Applicant respectfully submits that the claims are allowable for at least the following reasons.

To reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner*, 154 U.S.P.Q. 173, 177-78 (C.C.P.A. 1967). To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 1, 24, and 47 have been amended to describe combinations of features including:

> performing, using the insurance claim processing system, a bodily injury trauma severity calculation requested in the received XML message, wherein performing the bodily injury trauma severity calculation comprises determining a bodily injury trauma severity points value relative to a severity of a bodily injury, wherein the bodily injury trauma severity points value relative to the severity of the bodily injury is determined based on rules preset by a user, and wherein the bodily injury trauma severity calculation is performed in response to the insurance claim processing system receiving the XML message; and
> returning to the user system the bodily injury trauma severity points value determined in the bodily injury trauma severity calculation requested in the received XML message

Support for the amendments may be found at least at Applicant's specification page 27, line 26 to page 28, line 20; FIG. 9; and original claims 2 and 3 (now cancelled). Applicant respectfully submits that combinations of features described in claims 1, 24,

and 27 are not taught or suggested by the cited art.

Regarding the feature "wherein the action includes a trauma severity calculation " of original claim 2 (now cancelled), the Examiner relied on Aquila, paragraphs 20, 21, and 173-211. Regarding the feature of "wherein the result includes a trauma severity points value" of original claim 3 (now cancelled), the Examiner relied on Aquila, paragraphs 19-21, 74, 131, 173-211, 282, 294, 295, 355, and 356.

Aquila states:

[0019] The first notice of loss sub-system (FNOL) captures initial claim data directly from a consumer using client software. In another embodiment, FNOL captures initial claim data through a commercial participant. FNOL presents the user, the consumer of the commercial participant, with tailored questions, where the presentation format varies depending on the type of user. Also questions subsequent to certain gateway questions presented to the user vary according to the user's answers to the gateway questions. The claim data captured can be transmitted to and stored in the eclaim database, or insurance carrier system.
[0020] The triage sub-system receives claim data and determines the severity and priority of the claim according to business rules established by an insurance carrier. Next, the triage sub-system determines the type or type(s) of assignees to assign a claim to according to business rules established by an insurance carrier.
[0021] The assignment sub-system receives the claim from the triage sub-system, identifies the assignee most qualified for the assignment according to insurance carrier business rules, makes the assignment, records that the assignment has been made, and notifies the assignee.
[Aquila, Paragraphs 19-21]

Aquila also states:

[0171] FIG. 11 is a flow diagram of a process of triage and assignment in accordance with the present invention. FIG. 13 is a chart that represents data fields received or retrieved by the triage and assignment sub-systems. First, the triage sub-system 220 receives 1101 or retrieves an insurance claim record, similar to the example in FIG. 13, that contains data elements from either the eclaim database 280 or from the insurance carrier system 65.
[0172] i. Scoring Claim Data
[0173] Next, the triage sub-system 220 scores 1103 the insurance claim by retrieving and applying a set of the insurance carrier's business rules, which can be seen as an insurance carrier scoring table, stored on the insurance carrier system, to the claim data. Scoring simply assigns different aspects or elements of the claim according to the insurance carrier's business rules, and

then sums the numeric values associated with different aspects of a claim. Scoring sets the priority of the claim and may weigh such factors as:

[0174] Reported by person/relation

[0175] Reported on date

[0176] Loss type

[0177] Date of loss

[0178] Time of loss

[0179] Loss location (state, city, zip & county)

[0180] Number of vehicles involved

[0181] Number of parties involved

[0182] Types of parties involved

[0183] Location of parties

[0184] Loss description

[0185] Damage to vehicle

[0186] Location of vehicle

[0187] Vehicle drivability

[0188] Damage to other property

[0189] Location of property

[0190] Property livability

[0191] Injuries involved

[0192] Types of medical treatment

[0193] Type of policy

[0194] Type of coverage

[0195] Repair partners chosen

[0196] Amount of damages

[0197] Policy information

[0198] Agency information

[0199] Regulatory conditions

[0200] These factors are scored according to an insurance carrier's business rules via a rules based system. Examples of the application of the business rules to the claim elements are:

[0201] A point could be added for each vehicle involved in a claim.

[0202] A point could be added if there is damage to something other than a vehicle.

[0203] A point could be added for each non-injured person involved.

[0204] Several points could be added for each person involved.

[0205] Points could be added for different types of claims--Collision with a fixed object might get one point where Collision with another vehicle by rear ending it might get two and Collision with another vehicle in an intersection might get five.

[0206] Multiple points could be added if a bicyclist or pedestrian was involved.

[0207] Multiple points could be added if the claim is from a more complex policy type that requires more coverage investigation.

[0208] Points could be added if the car was a theft.

[0209] In addition, factors such as damage to vehicles, damage to property, or physical injuries may have an associated severity weighting that will contribute to the score that element receives. Next, the score assigned for each element of the claim are summed.

[0210] The <u>summed score</u> is used to determine 1105 the <u>severity</u> and priority <u>of the claim</u> according to the insurance carrier business rules. For example, <u>a claim that receives a high summed score likely represents a complex, high damage and high cost claim</u>. Determining the severity also will apply to determining the type of assignee the claim will be assigned to. For example, a claim with an extremely low score (under 5) might qualify to be handled completely by a repair facility without an adjuster needing to be assigned. One that scores under 20 might go to a fairly new adjuster. A claim that scored over 50 might only go to a seasoned specialists. In addition to scores, there could be additional rules that even if the score only amounts to 3 but there was an injury, the system would have to assign an adjuster in addition to the repair facility, since the repairer cannot handle the injury.

[0211] The summed score and the severity can be used to determine the priority of a claim, i.e., the order in which it is processed relative to other claims. The priority and order of processing of a claim can differ according to insurance carrier business rules. For example, some insurance carriers may prioritize the <u>processing of low scored claims that have low severity because low scored claims are usually less complex and are able to be turned over quickly</u>. In contrast, some carriers may do the opposite and prioritize the processing of <u>high scored claims that have high severity because they high severity claims may require more attention</u>.

(Aquila, Paragraphs 173-211) (emphasis added)

Aquila discloses a triage sub-system that receives claim data and determines severity and priority of a claim according to business rules established by an insurance carrier. A <u>summed</u> score based on numeric values associated with different aspects of a claim is used to determine the severity and priority of a claim. A high <u>summed</u> score corresponds to a high severity claim, and a claim that receives a high summed score likely represents a complex, high damage, and high cost claim. Aquila, considered individually or in combination with the other cited art, does not appear to teach or suggest performing, using an insurance claim processing system, a <u>bodily injury trauma severity calculation requested in a received XML message</u>, in which performing the bodily injury trauma severity calculation includes determining a <u>bodily injury trauma severity</u> points value relative to a <u>severity of a bodily injury</u>, in which the <u>bodily injury trauma severity points value relative to the severity of the bodily injury is determined based on rules preset by a</u>

user, and in which the bodily injury trauma severity calculation is performed in response to the insurance claim processing system receiving the XML message; and returning to a user system the bodily injury trauma severity points value determined in the bodily injury trauma severity calculation requested in the received XML message, in combination with other features of claims 1, 24, and 47.

For at least the reasons stated above, Applicant submits that claims 1, 24, and 47 and the claims dependent therefrom are allowable over the cited art.

E.   Additional Remarks

Based on the above, Applicant submits that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees are omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel Deposit Account No. 50-1505/5053-69100/EBM.

Respectfully submitted,

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